



## Blackjewel Bankruptcy Rocks Gillette *Gross Mismanagement Causes Mine Closures*

Early in the morning on July 1, Blackjewel, LLC and associated companies operating 32 coal mines in Wyoming, West Virginia, Virginia, and Kentucky filed for bankruptcy. Later that day, emergency funding fell through as banks that had previously financed the operations of Blackjewel owner Jeff Hoops no longer were willing to do so. The lack of funding forced the closure of all of the mines, including the Eagle Butte and Belle Ayr Mines near Gillette. The company's approximately 1,700 employees were sent home, and the communities in the four states were left with many unanswered questions.

Nonprofits and government agencies, including the Wyoming Department of Workforce Services, then raced into Gillette, Harlan, Kentucky, and other coal communities offering welfare type funding for families left without a paycheck and possibly without a future.



**Blackjewel miners in Kentucky protesting outside the courthouse.**

Meanwhile, after an unusual bankruptcy court ouster of Blackjewel's CEO Hoops, and several emergency bankruptcy hearings, including one on the July 4<sup>th</sup> holiday, the lawyers and financial advisors running the Blackjewel bankruptcy secured enough money to start moving through the process to sell all of the assets, including the Wyoming mines.

Also in that first week of the bankruptcy, something important happened at the Environmental Quality Council: our hearing objecting to the proposed transfer of the Wyoming mining permits from Contura to Blackjewel (*see the May-June 2019 edition of the Breaks*) was stayed because of the bankruptcy. That meant that the Wyoming mine permits remained with Contura and the company was kept on the hook for all permit obligations, including notably the \$254 million in reclamation costs for the mines. This

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## Experts Shred DEQ Proposed Moneta Divide Discharge Permit *Majority of Public Comments Oppose Permit*

A review of the Wyoming Department of Environmental Quality's (DEQ) proposed permit allowing Aethon Energy's increased oil and gas wastewater discharges into creeks, the Boysen Reservoir, and the Wind River was resoundingly criticized by hydrologists, engineers, water quality experts, and the public. These experts filed reports documenting specific reasons that the permit is completely inadequate to protect water quality for agriculture, fisheries, or wildlife. The public also weighed in with about 450 comments, with 88% of them either with serious concerns or against the issuance of the permit. The Northern Arapaho and Shoshone tribes also criticized the proposed permit, as did the EPA.

The DEQ attempted to sneak the proposed renewal of the Aethon discharge

**“Based on how the model was developed and the results, the reservoir model cannot be used for projections or decision making. In addition, even if the model adequately simulated water quality, the methods used to determine compliance are inadequate, sometimes wrong, and several assumptions were made to show favorable results.”**

**Dr. Jean Marie Boyer**

permit through the public review process without adequate public notice or any public hearings. Wyoming Outdoor Council attorney, Dan Heilig, alerted Powder River and other groups about the permit, and we all worked to open the door for more attention, public hearings and scrutiny of the proposed permit.

The renewed Aethon discharge permit

proposes to increase the discharge of oil and gas polluted water from about 1.7 million gallons a day to 8.27 million gallons a day – a seven fold increase. The permit also proposes grandfathering existing poor water quality discharges that have already caused serious erosion and eliminated aquatic life in Alkali and Badwater Creeks below the discharges. We believe those discharges are likely already impacting Boysen

Reservoir.

The proposed permit fails to meet several water quality regulations including the requirement that oil and gas wastewater discharged to the surface must be safe for livestock and wildlife. The total dissolved solids (TDS) limits for livestock and wildlife

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# Message from the Chair



If you read the article about the Moneta Divide concerns in this issue of the *Breaks*, you will surely draw some of the same conclusions that I have:

First, this is a huge problem, and there is nothing new about it. Industrial concerns, whether energy production, big agriculture, transportation or even tourism, have always felt free to make significant changes in the landscape that is Wyoming. From dumping waste to range abuse, to constructing highways through migration routes, man has played havoc with our natural systems. We all are at least a little guilty and somewhat complicit.

More specifically, Aethon's proposal is an economic one. They are a hedge fund, trying to get the best rate of return for their investors by selling an oil field with already-granted environmental exceptions. I wonder who those investors are. Are they innocent and unknowing people, or, are they powerful people in this state, perhaps even powerful in government? Are there things going on behind the scenes, both economic and political, that will never see the light of day? Ah, for a good investigative journalist who has unlimited funding...

Second, we are obviously failing to communicate with our political leaders. Or, perhaps others, with more sinister self-interests, are communicating more effectively than we are. We are a big enough number to be heard, and, with our allies, we make up a cross-section of interests. We are also being ignored. We have to remember this when we talk to leaders, and when we step into the polls to vote next time. There have to be consequences for the actions of those in office.

Thirdly, it seems to me that PRBRC is doing a good deal of the science and research that citizens should expect from our public regulatory agencies. We, and our partners, have spent a good deal of capital to bring in experts ranging from chemical analysts to water experts to biologists to legal experts in order to determine what really will happen to a valuable part of Wyoming's water when this proposal is approved. This seems to happen in every single big issue we address. We, as tax-paying citizens, must demand that our state agencies step up and start to do the job they are mandated to do. Sitting at a desk and issuing permits while hoping that some organization in the state will fund the science may not be exactly what they are doing, but it appears that this characterization is not far off the mark.

What can we do? We are ignored or overridden by our political leaders and our agency heads. We are trashed in industrial circles; we allow our neighbors to treat us as if we were aliens from other planets (or worse yet, from other nations), and we have to watch the degradation of the natural systems that support our very lives. We must stay strong together. We cannot afford the luxury of squabbling among ourselves. We need to speak the truth as we know it in every paper, in every post, and in every forum we contact. We need to inform the uninformed and dare to disagree with the misinformed. And we need to vote. Not only do we need to vote people out of office, we need to seek out and encourage better candidates to run for office. We need to make the health of our State the cause that matters. We will never get there mud-wrestling in the two-party system. We must cross party and philosophical lines to find and support the ones who will pull us out of this mess. And maybe we need to look into crowd funding that investigative journalist!

**Powder River Basin Resource Council (Powder River)** is a grass-roots organization of individuals and affiliate groups dedicated to good stewardship of Wyoming's natural resources. Powder River was formed in 1973 and stands for the preservation and enrichment of our agricultural heritage and rural lifestyle; the conservation of Wyoming's unique land, minerals, water and clean air consistent with responsible use of these resources to sustain the livelihood of present and future generations; and the education and empowerment of Wyoming's citizens to raise a coherent voice in the decisions that will impact Wyoming residents' environment and lifestyle.

**Powder River** is a member of the Western Organization of Resource Councils (WORC). WORC member groups are Dakota Resource Council, Dakota Rural Action, Idaho Organization of Resource Councils, Northern Plains Resource Council, Oregon Rural Action, Western Colorado Congress, Western Native Voice and Powder River Basin Resource Council.

**The services** provided by Powder River include public education, community organizing and lobbying as permitted on behalf of its membership. Powder River is a non-profit, 501 (c)(3) tax-exempt organization.

**Membership dues:** \$30 for individuals, \$50 for families and \$20 for students and senior citizens. Powder River is dependent on contributions for its work; contributions, large and small, are welcomed.

### Active Affiliate Organizations

- Cheyenne Area Landowners Coalition(CALC)
- Pavillion Area Concerned Citizens (PACC)
- Ranchers & Neighbors Protecting Our Water (RNPOW)
- Sheridan Area Resource Council (SARC)

### Board of Directors

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- Executive Administrator-Stephanie Avey
- Organizers-Shannon Anderson, Robin EH. Bagley, Hesid Brandow, Erik Rieger, Sheridan, and Monika Leininger, Laramie.

### Powder River Offices:

**Main Office:**  
 934 North Main St  
 Sheridan WY 82801  
 Ph: (307)-672-5809  
 Fax: (307) 672-5800  
 Email: info@powderriverbasin.org  
 Web: powderriverbasin.org

**Laramie Office:**  
 203 S. 2nd Street, Laramie WY 82070  
 PO Box 2074, Laramie, WY 82073  
 Ph: (307)-286-5531

### Powder River Breaks

Editor: Robin EH. Bagley  
 Layout: Stephanie Avey  
 Photos by Powder River staff and members.

## Save the Date

**November 2, 2019**  
**47th Annual Meeting & Auction**  
**Sheridan Holiday Inn**



# Open Editorial to Honorable Governor Gordon

The time has come for Wyoming to rise to the occasion and address the truth about the declining coal industry. Wyoming must step up to help Wyoming's coal communities transition to a new future. The devastating impact to coal miners and the community of Gillette with the abandonment and hollowing out of the Belle Ayr and Eagle Butte coal mines by an unscrupulous operator must be addressed.

The state of Wyoming knew that Blackjewel's CEO, Jeff Hoops, has one of the worst safety and environmental records among coal mine operators. Unfortunately, instead of rejecting Blackjewel's license to mine, DEQ granted the license to mine and then proposed transferring the coal permits from Contura to Blackjewel. The DEQ proposal would effectively let Contura off the hook for obligations to the miners, the community of Gillette, and the state. Powder River Basin Resource Council is the only entity that objected to the transfer of this permit to this bad operator.

Workers at the Eagle Butte and Belle Ayr mines describe working conditions at the coal mines without enough toilet paper or soap in the bathrooms, ink or paper in offices, and barely enough oil or fuel for equipment. Small businesses and vendors were not paid for their work or supplies. Miners' health, unemployment, and retirement benefits were not paid. Is this the kind of company Wyoming should issue permits to, to do business in our communities? Blackjewel owes taxes at both the local, state, and federal level and has probably not paid their Black Lung or Abandoned Mine Land payments.

Wyoming and the DEQ need to immediately confirm that financial assurances are sufficient to accomplish the nearly \$250 million reclamation work required at the mines. The DEQ's database indicates that there are about \$220 million in third-party bank-issued sureties for reclamation work at the mines, which are still backed by Contura, at least until the permit transfers go through. But about \$30 million of the reclamation work is backed by a large ranch property. Questions about the valuation of the properties and the DEQ's ability to acquire and sell the properties to complete the needed reclamation work are very concerning.

The sooner these financial assurances can be appropriately monetized, the sooner the 600 Wyoming employees left high and dry by Blackjewel's precipitous bankruptcy filing can return to work, and the sooner reclamation can resume in earnest.

We urge Governor Gordon to take all legal steps necessary to request performance of the bonds from the issuing sureties, and to seize and sell the real property collateral. Once this occurs, we hope there would be a way for the DEQ to quickly re-employ the workers to accelerate

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**"While we may not always see eye-to-eye with the issues pressed by the Powder River Basin Resource Council, we should be grateful to the Sheridan-based advocacy group. Because the Resource Council challenged transferring the mining permits to Blackjewel when it took over operations of the mines, the state has a much better grip on making sure its \$250 million in reclamation obligations can be met. The argument the Resource Council used was that Blackjewel was a bad company, and the state would be better off without it as a coal operator."**

**Greg Johnson, Gillette News Record, July 28, 2019**

## A Tale of Two Bankruptcies

It takes something pretty spectacular to take the attention of the Gillette community away from the bankruptcy of one of the Powder River Basin's largest coal producers and employers.

Cloud Peak Energy has been methodically moving through its Chapter 11 reorganization and sale since May 10, going through all the normal procedures in a corporate bankruptcy. Unfortunately, these are procedures Campbell County residents and coal workers are all-too-familiar with after having watched Alpha Natural Resources, Arch Coal Inc. and Peabody Energy Corp. all go through Chapter 11 reorganizations over the past four years.

As the only pure PRB play, Cloud Peak operates the Cordero Rojo and Antelope mines south of Gillette. Antelope is the third-largest producing mine in the basin behind only North Antelope Rochelle and Black Thunder.

More than 500 motions have been filed so far in Cloud Peak's bankruptcy case, which comes to a head this week. The bid deadline for anyone interested in buying any of the company's assets was last week and an auction has been set for Thursday. With a sale hearing of Aug. 7 set, we could be in the final days of Cloud Peak operating in the PRB.

Something pretty amazing must be going on that something with the potential to significantly change the local coal industry can fly under the radar.

That something has been Blackjewel LLC, which has been spectacular in how hard and fast the company crashed and amazing in how unprecedented its bankruptcy has unfolded.

It wasn't enough to just file for Chapter 11 and keep operating business as usual like all the other PRB bankruptcies. Blackjewel rushed into it, went to court with a shaky \$20 million financing plan that fell through at the last minute and abruptly closed down its 32 operations in four states, including the Belle Ayr and Eagle Butte mines in Campbell County.

Information gleaned from multiple emergency hearings with the federal bankruptcy court has shown just how disorganized, inept and

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# Ramaco's Permit Application Still Deficient

Ramaco submitted a permit application for a new coal mine in Sheridan County back in October 2014. Now, almost five years later, the Wyoming Department of Environmental Quality (DEQ) is *still* reviewing the permit application. An unprecedented tenth round of technical review questions and comments was sent from DEQ to Ramaco this summer, raising significant ongoing deficiencies related to the company's analysis of hydrological impacts, subsidence, and other concerns. DEQ's questions and comments spanned 30 pages and were written by staff in the Sheridan, Cheyenne, and Lander offices of the agency. DEQ has also hired an independent consultant to review the subsidence control plan, which is a critical component of the permit application since the mine is proposed in an area with abandoned mines and active subsidence.

Of note, DEQ continues to press Ramaco on its ground and surface water monitoring program, noting the absence of enough monitoring stations to properly characterize baseline water conditions and to monitor the impacts to water sources during mining. There is ongoing review of the presence of alluvial valley floors (AVFs) and how those AVFs might be impacted by mining. AVFs are critical to local agriculture and the vibrant hay farms of the Tongue River Valley.

Powder River staff and members continue to actively monitor the permit files and remain engaged to protect our interests and the quality of life of landowners who are neighbors to the proposed mine and its associated proposed industrial facilities.

**Shannon Anderson**  
Powder River Staff



## CALC Sponsors Webinar on Safe Setback Distances

In June, Powder River affiliate, the Cheyenne Area Landowners Coalition (CALC), sponsored a live webinar event with Dr. Lisa McKenzie, a key researcher of how air pollution from oil and gas wells impacts public health. The webinar was attended by local residents, DEQ regulators, as well as our allied groups from around the region.

In 2018, McKenzie and her co-researchers conducted a study along Colorado's Front Range where there has been heavy oil and gas development. Last fall they published a study, finding that air pollutant concentrations increased with proximity to oil and gas facilities, as did health risks. The study evaluated long-and-short-term exposure to non-methane hydrocarbons such as benzene and other hazardous air pollutants and their effect on human health. Air pollution is one of the main potential health risks for populations living near oil and gas development, and can result in congenital heart disease, cancer, and other respiratory, neurological, or developmental impacts. The findings indicated that state and federal regulatory policies may not protect the health of people residing near oil and gas



**Dr. Lisa McKenzie**

facilities.

McKenzie is an Assistant Research Professor at the Colorado School of Public Health of the University of Colorado Denver's Anschutz Medical Campus. Her research has contributed to the understanding of how exposures resulting from the unconventional development of petroleum resources affect the public's health. Her studies are among the first risk assessments and epidemiological studies on this topic to be published.

"It is critical that decision makers, regulators, and the public better understand the research around safe setback distances from oil and gas wells. Dr. McKenzie's study is cutting-edge as industrial operations move closer to our homes, neighborhoods, and schools, and we hear more and more about health impacts from exposure," said Alex Bowler, CALC President and former Wyoming Department of Health program manager.

**Monika Leininger**  
Powder River Staff

# Groups Aim to Ensure Companies Pay a Fair Return for Taxpayer-owned Minerals

Five conservation groups, including Powder River, moved to intervene in a lawsuit to preserve the 2016 Valuation Rule, a set of federal requirements requiring fossil fuel companies to pay full royalties when extracting publicly owned minerals. The lawsuit was filed in federal court in Cheyenne by multiple fossil fuel industry companies and trade associations aiming to overturn the rule issued by the Department of Interior's Office of Natural Resources Revenue (ONRR).

The Valuation Rule closed a loophole under which energy companies pay a deflated royalty to the federal government by selling coal, oil, and gas to affiliated companies at below-market rates. The companies then sell the minerals to a third-party at a higher price without paying a cent in royalties on the markup. This has particularly been an issue with exported coal, where international prices are often much higher than domestic ones.

The 2016 rule requires that royalties be paid at full market value when federal minerals leave an energy company's hands, rather than based on an internal company transaction. Energy companies have increasingly used affiliated companies to internally sell resources, often at lower prices. In 2016, 42% of coal sales in Wyoming were "captive transactions" from a coal company to an affiliated company, up from just 4% in 2004.

In adopting the rule, the Interior Department estimated conservatively that it will increase royalty collections by more than \$70 million per year. In 2017, former Montana Director of Revenue Dan Bucks estimated the rule could generate substantially more revenue for taxpayers. The federal government is bound by law to seek fair market value for the use of public lands and their resources, and half of federal royalties are returned to states to fund schools, roads, and other infrastructure. ONRR received nearly 200,000 public comments on the proposed rulemaking during the comment period in May 2015, the vast majority of which strongly supported the rule.

If you're feeling a sense of déjà-vu about this, you're not alone. Following the publication of the final Valuation Rule in 2016, the same industry groups filed three petitions in Wyoming federal court challenging the rule in December 2016. In early 2017, Powder River was granted intervention in that suit. But that suit never went anywhere, because in February 2017, following the change in presidential administrations and at industry's request, ONRR postponed the Valuation Rule's effective date, a move which was subsequently declared illegal by a federal judge in August 2017. Then, later that same year, ONRR repealed the rule altogether – a move which was also declared illegal by a federal judge. So, the rule is now back in effect, and the ONRR rule merry-go-round has circled back to Wyoming to a case challenging the 2016 rule.

Powder River is joined in the litigation by the Natural Resources Defense Council (NRDC), Northern Plains Resource Council, The Wilderness Society, and the Western Organization of Resource Councils (WORC).

In a statement supporting the groups' intervention, Powder River Vice-Chair Bob LeResche said:

*"The Trump Administration killed this rule for the coal industry once, and now industry is trying to do it again. If companies want to profit from taking America's public resources and selling them back to us, they need to pay a fair return. States, counties, and towns depend on mineral revenue for schools, roads, and more. As coal markets collapse, it's more important than ever to insure the coal industry can't keep gaming the system with subsidies, loopholes, and special breaks, as they have done for years."*

**Shannon Anderson**  
Powder River Staff

## Joint Revenue Committee Grapples with Broadening the Tax Base

In July, the Joint Legislative Revenue Committee met for their second meeting of the interim prior to the budget session's commencement next February. With the recent bankruptcies of several coal mines throughout Wyoming, the committee has a lot of pressure on them to bring bills that will generate money; nevertheless the talk of taxes is still as taboo as ever. The committee has considered a couple options for broadening our tax base, such as increasing the wind tax and passing the first-ever Wyoming income tax, a corporate income tax.

The discussion about raising the Wyoming wind tax from one dollar per megawatt was followed up by economists speaking to the committee about the reality of changing energy markets in the state. Some economists, such as Robert Godby, a professor at the University of Wyoming's Energy and Economics Department, argued that our tax structure for wind is not as competitive as other states. A few legislators, like Senator Cale Case, are intent on increasing the tax due to losses in view shed and the "short term benefits" of job creation. Regardless of

the tax, economists continually warned the committee about our grim economic state if we don't do anything to change our dependency on severance taxes from mineral extraction.

What seemed like it would be a brighter spot on the committee's agenda was a follow-up discussion on the corporate income tax bill from the last legislative session, which would have taxed big box stores and corporations across the state. Representative Obermueller, who sponsored the bill in the last session, revamped his plan and has now put his stamp on a bill similar to the National Retail Fairness Act. Obermueller explained that there has been a trend where corporations have replaced locally owned businesses, and this is one way of keeping more revenue in the state to make up for those lost businesses. The newly proposed bill would tax corporations with 100 shareholders or more an annual rate of 7% on retail, hospitality, and food service sectors, but with the credit system proposed, the effective tax rate would be much less. While some legislators thought that the tax would

# Workshop Explores Cover Crops Usage in Northeast Wyoming

On June 27, Powder River collaborated with the Sheridan Community Land Trust, the Natural Resources Conservation Service, UW Extension, and others to sponsor the “Cover Crops in Northeastern Wyoming Field Workshop.” The successful workshop had over 30 individuals in attendance and involved field visits to an Extension research site and two ranches employing cover crops on a large scale. Attendees gained first-person insight and expert advice on the what, why, how, and when of employing cover crops.



Workshop attendees learning about cover crops.

Kellen Little, presenting at his family’s ranch in Leiter, said that he warmed up to cover crops after observing the tillage fallacy. “If you plowed twice a year, you would flip dirt one way, then the other,” Kellen remarked. His operation is using a careful succession of cover crops to restore denuded fields back to sustainable, irrigated grass meadows. He said the way it was commonly done was that alfalfa stands were disced in the fall, left bare until spring, planted with millet, and then with alfalfa again the following year—all with 500-600 pounds of fertilizer in the mix. Little said that now sowing is done with a grain drill in May or June and fertilizer is reduced to 100-150 pounds, with far-reduced tractor costs as well.

Mike Odegard of Arvada is also employing cover crops on hundreds of acres. The practice enhanced his transition to no-till farming, and he uses cover crops for both hay and grazing. With cover crops, he said, he can graze his cattle earlier and later, increase stocking rates, and substantially drop the need to make and feed hay. He said these changes resulted in a huge cost savings almost immediately by reducing annual tractor usage from 20,000 hours to 10,000 hours.

Caitlin Youngquist, a UW Extension educator who specializes in soil science, reiterated that cover crops can be an effective practice for

improving overall soil health. “We’re very good at the chemistry and physics,” she said, but, “that’s where we get stuck.” Cover crops, she noted, can help a lot with the often neglected third player: biology. Cover crop residues, roots and root exudates, bacteria, fungi, and even manures from grazing cover crops, can all help increase total soil organic matter. When we get all three right—chemistry, physics, and biology—that’s where the magic happens, she added.

For many, the obvious stumbling block is that cover crops have their own learning curve along with new costs. Their payoff in gains such as “healthy soil” can seem enigmatic. Kate Vogel, with North 40 Ag, a Montana-based cover crop seed supplier, said producers can alleviate much of that worry by starting with clear reasons for using a cover crop, such as supplemental grazing or suppressing weeds. Their online “Smart Mix” tool allows producers to see if and which cover crops are the right match for their fields. In a June report by Sustainable Agriculture Research & Education (SARE), North Dakota farmer Justin Zahradka said the key is to “look at cover crops as an investment rather than a cost.”

That SARE report, “Cover Crop Economics,” is one of the first longer-term studies of its kind. The report notes that cover crops pay their way within one to three years in a variety of situations, including when herbicide-resistant weeds are a problem, soil compaction is an issue, there is transition to no-till, there is low soil moisture, input and fertilizer costs are high, or producers receive incentive payments. The report is online at [www.sare.org](http://www.sare.org).

**Erik Rieger**  
Powder River Staff

## Teaching the Youth about Pollinators



Carol LeResche teaches a group of children about pollinators at the Sheridan Food Forest.

# BLM Proposes Waiving Raptor Protections in Converse County Oil & Gas Project

In a controversial first-of-its kind proposal, the Bureau of Land Management (BLM) is looking to waive critical protections for non-eagle raptors as it prepares to finalize its approval of a 5,000-well oil and gas project in Converse County.

In response to the proposal, Powder River, and other groups including the Wyoming Outdoor Council and Audubon Rockies, submitted comments asking the BLM to adhere to the current requirements that provide buffers around raptor nests during critical nesting and breeding times. Powder River told BLM that the current requirements are scientifically defensible, but moving forward with industry's proposal for year-round drilling would essentially be a failed experiment. BLM's proposal would lead to habitat loss and protections for sensitive species like the Red-tailed Hawk, Ferruginous Hawk, and Great Horned Owl as operators drill thousands of wells year-round. Powder River also told BLM to consider



Photo courtesy of Michael Forsberg.

the non-wildlife benefits of the current protections – commonly called timing stipulations – including a break from drilling for landowners during calving and lambing seasons.

In response to the proposal, Brian Rutledge, Director of the Sagebrush Ecosystem Initiative for National Audubon Society, said, “The idea that BLM is considering dropping these important protections for non-eagle raptors is not only extremely concerning because it is so short-sighted, but goes against their own years of work with partner state and federal agencies.”

BLM is currently reviewing the comments and is likely to finalize its proposal for the raptor requirements, along with the entire Converse County Oil and Gas Project, later this year.

**Shannon Anderson**  
Powder River Staff

## Now is the Time to Diversify

I'm going to let you in on a secret...are you ready?

This may come as a shock, but Wyoming's economy is not very diverse. As a state, we are over-reliant on coal, oil, and gas to pay our bills. We have very low taxes outside of those sectors; most of our needs are paid for by the energy sector of our economy. That is NOT good news.

While it is nice to have somebody else pay the bills, it means if those industries experience a downturn OUR ENTIRE STATE also experiences a downturn. If there are a lot of bankruptcies in the coal industry, just for instance, we could find ourselves in a situation where we have to make some very difficult decisions about what to cut in order to stay afloat. Welcome to Wyoming circa 2019.

Are you eating your hat with anxiety? Are you on the cusp of panic? Take a deep breath. Now, envision a way forward. It is not too late, and Wyoming still has options. We have a lot to offer the rest of the world. Wyoming is more than coal, oil and gas. We are a land of wild beauty, hearty grassroots people, and abundant energy. We just need to see our own potential and act on it.

Depending on the source, Wyoming has between the eighth and 11<sup>th</sup> best solar resources in the country. We are on par with Arizona, a state known for its sun. We can still provide for the energy needs of the country and meet the increasing demand for renewable energy. It is not too late.

We are also an ag state. Agriculture, especially small-scale, local agriculture, is growing in Wyoming. Farmers markets are popping up all over the state. The number of people participating in local markets, whether buying or selling, is on the rise.

Agriculture and solar can be paired to benefit both sectors of the



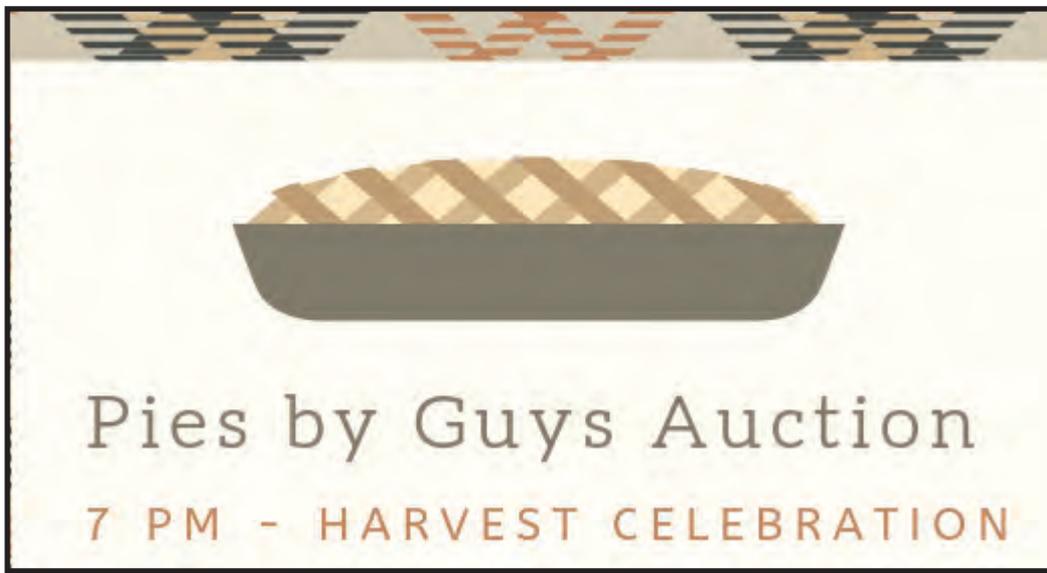
economy. Through careful siting, solar can be designed to allow enough sunlight for plants grown underneath, while still providing enough shade to slow evaporation. This reduces the need to water plants, reduces stress on plants during the hottest part of the day, and actually leads to larger yields. On the solar side, the evaporation that does occur from plant leaves cools the panels, actually increasing solar production! It is a win-win situation.

Along with our natural beauty, a strong local food scene and increased renewable energy could help our tourism sector. It will probably not surprise you to learn that most of

the tourists come from the dense population centers, including the East and West Coasts. It is an increasingly common trend for people to vote with their feet in what they support. There is strong support for local foods and renewable energy on the nation's coasts. People are spending more money in places where their ideals are supported. Tourism is one of our most promising sectors of growth in Wyoming. Let's grow local food and renewables and support tourism in the process. It is NOT too late.

The moment to act is now. Change can be scary, but it can also bring about new opportunities. Wyoming is not going to turn the tide on coal use. There is no point in pretending coal is going to return to pre-2016 levels. What we can do is look at the trends in energy use and look at what people are seeking as both consumers and tourists. We can see this demand and rise to the occasion to meet it. We can also take a hard look at our tax structure as a state and work to become less dependent on dying industries. Now is the time to act, because IT IS STILL NOT TOO LATE.

**Hesid Brandow**  
Powder River Staff



**See you at Kearny Hall  
August 24, 2019**

Two chocolate chip cookies are shown in a close-up shot, one slightly overlapping the other. They are golden brown with dark chocolate chips.

**HARVEST CELEBRATION  
DESSERT SILENT AUCTION**

Desserts will be offered in a Silent Auction this year. Please bring your desserts in a container you do not need back.

## **New Markets for State-Inspected Meat & Poultry Act Introduced**

Last year Powder River supported the “New Markets for State-Inspected Meat & Poultry Act” introduced by Senators Rounds (R-SD) and King (I-ME), but it was not acted upon by the time Congress recessed. We are happy to report that the bill has been re-introduced and that both Wyoming Senators Enzi and Barrasso are co-sponsors of the bill.

Currently, only meat and poultry that has been processed in a USDA-inspected facility can be sold outside of the state. This bill would allow meat and poultry that has been inspected by state agencies with equal-to or stricter standards as USDA’s Food Safety and Inspection Service (FSIS) to be sold across state lines. Wyoming is one of 27 states with such a program. The state has approximately 20 qualifying meat processing facilities.

The bill is important for Wyoming ranchers as it would allow meat processed at these FSIS-approved state plants to be sold across state lines, opening up new markets for these products. Furthermore, it will help keep more meat processing dollars in Wyoming because ranchers won’t have to transport their livestock to out-of-state USDA-inspected plants in order for their meat to be sold outside of Wyoming. Less transportation also saves ranchers money.

This bill is important for Wyoming agriculture, and we will monitor its progress and keep you updated.

**Robin EH. Bagley  
Powder River Staff**

# Powder River Basin Resource Council



**14th  
Annual**

## Harvest Celebration & Potluck

August 24, 2019

**Kearney Community Hall  
Highway 87 just off I-90 Exit 44  
for Story/Banner, near Fort Phil Kearney**



Cash Bar  
provided by!!

**Invasion  
Bar**

**Main Meats:**

**Beef Bourguignon  
Lamb Curry Meatballs**  
Meat Donated by Barlow Ranch

*Guests encouraged to bring a side dish, salad or dessert.*

**Harvest Dinner 5:30 p.m.**

**\$15 Adult \$10 Children (12 & under)**

**Music Prior to Dinner - Mark Paninos and Friends**

**Raffle Tickets:**

\$5 per ticket or 6 for \$25

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### Did you know that Powder River has a YouTube Channel?

You can find us by going to YouTube.com and searching PowderRiverBasinRC. All of our solar stories and our new oil & gas impact videos are available to watch.

# Woods Landing Site of Truck Accidents & Wastewater Spills *Trucks Hauling Produced Water from Colorado*

Woods Landing, a small town just outside of Laramie on Highway 230, has experienced an increase in oil and gas traffic coming from a Colorado oilfield across the border near Walden. The combination between the large, industrial loads and the winding descent on Highway 230, a two-lane road, has resulted in multiple crashes, spills, and a fatality.

The first accident happened in April when a tanker truck carrying produced water derailed from Highway 230 at the Woods Landing turn and spilled 100-150 barrels of produced water into the Laramie River. Following an investigation conducted by DEQ, spokesperson Keith Guile told the *Laramie Boomerang* that “it is very difficult to do something after the fact” due to the rate of the river’s flow in peak snow melt season. He claimed that it was hard to tell to what extent there was an environmental impact, if any. Powder River has requested the documents of the investigation related to this accident.

The second accident happened just a month later when a commercial equipment vehicle failed to make a turn left while going down the mountain pass. The driver went through the guardrail and slid down a ravine before coming to a rest in Woods Creek, which flows into the Laramie River. Though the driver was wearing his seatbelt, he died at the scene of the crash.

The third accident took place a month later at the beginning of



**The third accident within the last three months on Highway 230. This photo was taken right across the Colorado border on the highway.**

July where just across the Colorado border, a water tanker, lost control of the truck and crashed. There were no fluids released during this accident, and the driver was found alive at the scene.

Due to public safety concerns, Powder River has collaborated with members of Albany County Clean Water Advocates (ACCWA) to organize citizens in the area and find solutions. In June, a meeting was held at the Woods Landing Bar and Cafe where members of the public were able to express their concerns as well as hear from the Wyoming

Department of Transportation (WYDOT) and the Wyoming Highway Patrol on what is being done to prevent such accidents. WYDOT told the group that they have been constructing more runaway lanes, increasing signage that warns of steep grade, and adding chevron arrows that guide trucks around the corners. Wyoming Highway Patrol shared their plans of random checks of all commercial vehicles at the top of the summit; they will be conducting their first random inspection date sometime in August.

Community members and organizations still worry that the actions taking place are not enough. Powder River and ACCWA will continue to work for more monitoring, emergency management plans, and pushing WYDOT and the Highway Patrol for more actions to prevent future accidents.

**Monika Leininger**  
**Powder River Staff**

## **Blackjewel...Continued from page 1**

situation brought Contura to the table with an offer to buy the mines back for \$33.7 million to re-open them, a price that included putting up some emergency cash to keep the overall bankruptcy proceedings going so the mines wouldn’t end up in bond forfeiture proceedings. Contura was so desperate to prevent bond forfeiture that it upped its original bid by \$13 million to pay off debt owed to Blackjewel’s main creditor, Riverstone Credit Partners.

Fast forward several weeks and now the bankruptcy court has approved the Eagle Butte and Belle Ayr mines sale to Contura.

However, the future of the mines is still very uncertain. When it paid Blackjewel \$21 million to take the mines in December 2016, Contura made it clear that it no longer wanted the mines and was shedding unwanted liability from its company’s portfolio of assets. Instead, it announced it was intending to focus on the more profitable metallurgical coal mines the company owns in Appalachia. How long Contura will stick around this time is anyone’s guess, but chances are it won’t be for long. In its press release during the bankruptcy, the company said it would operate the mines for 6-12 years, at the most. However, after the sale was approved by the bankruptcy court, inside sources close to the bankruptcy negotiations reported to Wyoming Public Radio that Contura has plans to keep the mines open for less than a year, focusing on reclamation and wind-down of the operations, as opposed to new mining at the sites.

Also uncertain is the future for local, state, and federal governments that were left with taxes and royalties unpaid as a result of

the bankruptcy. These liabilities include over \$50 million in unpaid royalties to the Department of Interior, \$37 million in unpaid local taxes to Campbell County, millions in unpaid severance taxes to Wyoming, unpaid abandoned mine land and black lung fund payments, and a host of other unpaid payroll and other taxes. Brokering a deal between the government agencies and Contura about this tax liability is a condition that must be met before the sale of the mines can close. As of press time for the *Breaks*, no reports of a final deal have been released; however, it goes without saying that if these taxes are forgiven or future re-payment is speculative, this will be a tremendous loss for the Wyoming budget and will have consequences for Campbell County services and schools across the state. For several years, Powder River has advocated for changes to state law and policy to better protect government coffers during bankruptcy, and we hope the Blackjewel bankruptcy will be a driver for these reforms going into the 2020 legislative session.

As Contura takes back the mines, Powder River staff and leaders will remain vigilant in ensuring reclamation costs remain covered and the impacts of neighbors to these large mines are addressed. We will continue to hold the Department of Environmental Quality to the letter of the law and will continue to work with local governments to achieve a just transition for workers and communities facing a never-ending decline in the coal industry.

**Shannon Anderson**  
**Powder River Staff**

## Experts Shred...Continued from page 1

are 5,000 mg/L and DEQ proposes to grandfather a limit of 6,400 mg/L. The permit also neglects to consider the mass loading impacts of 719 tons per month of chloride and 2,161 tons per month of TDS. Furthermore, the permit also fails to address all of the pollutants present in the wastewater including the chemicals used in stimulation and fracking of the gas wells.

Dr. Jean Marie Boyer, P.E. with Hydros Consulting stated, “Based on how the model was developed and the results, the reservoir model cannot be used for projections or decision making. In addition, even if the model adequately simulated water quality, the methods used to determine compliance are inadequate, sometimes wrong, and several assumptions were made to show favorable results.”

Boyer took issue with this DEQ statement in the permit: “The model was designed to ensure compliance with WQS (water quality standards) applicable to Boysen and to maintain existing quality in the Wind River below Boysen.” In response, Boyer wrote, “Unfortunately, this is not a true statement.”

Dr. Harold Bergman and Dr. Joe Meyer wrote to the DEQ, “The

draft permit renewal should not be approved. The permit renewal application and the draft permit, together, are severely inadequate and missing crucial information that would allow for evaluation of potential violations of end-of-pipe discharge limits, in-stream water quality standards, and effects on aquatic biota as a consequence of the discharges allowed under the proposed permit.” They also told DEQ the untreated produced water from Aethon’s discharge would have to be diluted at least 10-fold to avoid impacting aquatic life.

We detailed specific examples in our comments informing the DEQ that the proposed permit violates the Clean Water Act, the Wyoming Environmental Quality Act and the Department’s rules and regulations implementing those laws. But if the DEQ continues down the same road as they have in the past, they will bow to industry. Once again, Powder River and our allies will be the ones to stand up, do the job of the state and protect Wyoming’s precious resources.

**Jill Morrison**  
**Powder River Staff**

## Open Editorial...Continued from page 3

the reclamation work that needs to be done. The ongoing bankruptcy may present obstacles to such actions, but the state hiring back the workers to help complete the reclamation work would be the best thing for the employees, the community, and the environment.

Reclamation work, done properly, will take several years, and allow the workers, Gillette and Campbell County to transition rationally and

with as little pain as possible to the future economic reality that appears to be inevitable.

**Joyce Evans,**  
**Chair, Powder River Chair**

*Editor’s Note: Reprinted from the July 5, 2019 issue of WyoFile. This letter also ran in a number of other newspapers around Wyoming.*

## Tale of Two...Continued from page 3

potentially illegal Blackjewel’s former management team was under the leadership of former CEO Jeff Hoops.

To say mismanagement played a large role in the Blackjewel fiasco would be an understatement. You only have to look at the four other PRB bankruptcies to know that. In all of those, the mines were never shut down, employees were paid and appropriate taxes to the county, state and federal governments were maintained (for the most part).

While we may not always see eye-to-

eye with the issues pressed by the Powder River Basin Resource Council, we should be grateful to the Sheridan-based advocacy group. Because the Resource Council challenged transferring the mining permits to Blackjewel when it took over operations of the mines, the state has a much better grip on making sure its \$250 million in reclamation obligations can be met. The argument the Resource Council used was that Blackjewel was a bad company, and the state would be better off without it as a coal operator.

As we prepare to potentially see new owners for the four mines being sold by Cloud Peak and Blackjewel, let’s make sure we’ve learned our lesson and not allow another bad company a chance to be equally spectacular and amazing.

**Greg Johnson**  
**Managing Editor, Gillette News Record**

*Editor’s Note: This is a reprint of the editorial published in the July 28, 2019 issue of the Gillette News Record.*

## Joint Revenue...Continued from page 5

be an effective way to supplement Wyoming’s lost revenue from coal, other legislators argued that the tax picks winners and losers and could have a negative impact on small towns with few amenities. Regardless, the committee voted by a close margin to consider the bill for the next interim session meeting.

Despite the recent coal mine bankruptcies, the topic of unpaid ad valorem taxes to counties was not on the committee’s agenda. This past legislative session, a bill passed to give counties a better shot at

claiming their lost taxes, but it does not go into effect until 2021, so has not been useful in these bankruptcies. The bill that would have made companies pay their county taxes monthly was killed in the interim, prior to the 2019 legislative session.

**Monika Leininger**  
**Powder River Staff**



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## Save the Date

- 24th August ~ Harvest Celebration
- 28th-31st August ~ Joint Minerals Committee, Casper
- 20th September ~ Board Meeting, TBD
- 2nd November ~ Annual Meeting/Auction

# Planned Giving and Estate Planning Gifts

The Powder River "family" has been thinking a lot about the future lately, because, as the saying goes, "We aren't getting any younger." We want to make sure this organization remains viable for future generations in the same way it serves today's members. So we're inviting you, our extended family of members and donors, to consider including Powder River in your estate plans.

Your gift would create a living legacy allowing Powder River to continue our work far into the future and helping ensure Wyoming remains the place we know and love for our kids and grandkids.

As one long time Powder River member, Digger Moravek stated, "I want to raise Hell long after I'm gone." You too can do this through a bequest to Powder River.

The two easiest ways to include Powder River in your estate planning take little time (and no legal assistance).

- **THROUGH YOUR RETIREMENT ACCOUNT** (Your IRA, Roth-IRA, SEP-IRA, 401(k), or other such account): Name *Powder River Basin Resource Council* as a Primary beneficiary for a percentage. One percent, 10%, 25% or whatever you wish. You can do this through the account custodian, or often even on the custodian's website in a few minutes (Powder River's Tax ID is 74-2183158).

- **THROUGH YOUR LIFE INSURANCE POLICY:** - Name *Powder River Basin Resource Council* as a primary beneficiary of any percentage of your life insurance policy. You can do this through your insurance agent or the insurance company, or often even on your insurance company's website in only a few minutes (Powder River's Tax ID is 74-2183158).

If you are preparing a formal will or living trust document, you can include Powder River Basin Resource Council as a primary beneficiary of a specific dollar amount or percentage of your estate. If you already have such an instrument, you can have it revised to include Powder River. This is probably best done through your attorney.

Finally, there are several more complex tax-advantaged ways to contribute to Powder River's future and receive continuing income and tax advantages during your lifetime. These include "charitable remainder trusts" and sale of appreciated and depreciated securities. Please consult your legal and financial advisors about how you can use such tools to support Wyoming's most effective grassroots member organization, and how you might benefit.

If you have any questions, please give Powder River a call at 307-672-5809

Thank you!

### Wyoming Delegation Contact Information

**Barrasso, John (R)**  
307 Dirksen Senate Office Building  
Washington, DC 20510  
Website: [barrasso.senate.gov](http://barrasso.senate.gov)  
Phone: (202) 224-6441  
Fax: (202) 224-1724

**Enzi, Mike (R)**  
379A Senate Russell Office Building  
Washington, DC 20510  
Website: [enzi.senate.gov](http://enzi.senate.gov)  
Phone: (202) 224-3424  
Fax: (202) 228-0359

**Cheney, Liz (R)**  
416 Cannon House Office Building  
Washington, DC 20515  
Website: [cheney.house.gov/](http://cheney.house.gov/)  
Phone: (202) 225-2311  
Fax: (202) 225-3057